HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT APPEAL NO.727 OF 2006

Between:

K.Ratnam

. . .Appellant

AND

Fishermen Cooperative Society Ltd.,
and others

. . .Respondents

Counsel for the appellant : Shri N.Siva Reddy

Counsel for the respondent No.1 : Smt M.Vidyavathi

Counsel for the respondent Nos.2 & 3 : Government Pleader for Fisheries

Dated: 3rd July, 2006

: JUDGMENT :

PER G.S.SINGHVI, CJ

This appeal is directed against interlocutory order dated 15.06.2006 passed by the learned Single Judge in W.P.M.P.No.14501 of 2006 in W.P.No.11669 of 2006 whereby, while suspending operation of order dated 04.04.2006 passed by Andhra Pradesh Cooperative Tribunal, Visakhapatnam, (for short 'the Tribunal'), the learned Single Judge directed the managing committee of Fishermen Cooperative Society Limited (FCS), Srikrishnapatnam (respondent No.1 herein) not to take any policy decision or admit new member into society.

In the writ petition filed by respondent No.1, which is pending adjudication before the Single Bench, prayer has been made for quashing order dated 4-4-2006 passed by the Tribunal. The main ground on which respondent No.1 has questioned the order of the Tribunal is that reasons recorded by it for setting aside the election of the managing committee are ultra vires to the provisions of the Andhra Pradesh Cooperative Societies Act, 1964. According to respondent No.1, election of the managing committee was held in accordance with Rule 22 of the Andhra Pradesh Cooperative Societies Rules, 1964, but, without properly appreciating the scope of the statutory provisions, the Tribunal annulled the election.

Learned counsel for the appellant strenuously argued that writ petition filed by respondent No.1 is not maintainable and is liable to be dismissed because Shri Talari Chinni, who filed petition claiming

himself to be President of respondent No.1, ceased to be President on 04.04.2006 that is the date on which the Tribunal set aside the election of managing committee. He then submitted that the officer who was appointed as part-time Person-In-Charge of society vide proceedings No.93/A6/2006 dated 29.04.2006 issued by Deputy Director of Fisheries (FAC) and Joint Registrar of Cooperative Societies, Kakinada had taken over charge of the society on that very day and, in that view of the matter, erstwhile President could not have instituted writ petition on behalf of respondent No.1.

In the context of argument/submission of the learned counsel, we asked him to show any document evidencing taking over of charge by the part-time Person-In-Charge, but learned counsel could not draw our attention to any such document.

In view of the above, we are not inclined to hold that Shri T.Chinni did not have locus to file writ petition on behalf of respondent No.1.

We are further of the view that conditional order passed by the learned Single Judge does not suffer from any patent legal infirmity warranting interference in this appeal. The learned Single Judge has adequately protected the interest of the society by directing that the managing committee shall not take policy decision and shall not induct new members. Therefore, no injury, much less an irreparable injury, is going to be caused to the appellant.

For the reasons stated above, writ appeal is dismissed.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 03.07.2006

kvni/svs